

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

UNITED STATES OF AMERICA

v.

RONALD BRUCE MYERS,

Defendant.

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CRIMINAL ACTION NO.
1:88-CR-0018-JOF

OPINION AND ORDER

The instant matter is before the court on Petitioner Ronald Bruce Myers' Pro Se Motion for Reduction of Sentence [30].

This court sentenced Petitioner to ten years of imprisonment in 1988 for transporting counterfeit securities in violation of 18 U.S.C. § 2314. Petitioner was released but is now back in federal custody on violations of supervised release. Upon his return to prison, Petitioner participated and completed a 500-hour Residential Drug and Alcohol Program. Under 18 U.S.C. § 3621(2)(B) the Bureau of Prisons may reduce a prisoner's sentence by up to one year for successful completion of such a program. Petitioner maintains that he is ineligible for a reduction under this statute due to his "parole violation and the age of his convictions." As such, Petitioner requests that this court exercise its authority under the old

Rule 35, or Fed. R. Crim. P. 35(b) (1979), to reduce his sentence by one year for his successful completion of a Residential Drug and Alcohol Program.

The old Rule 35 applies to defendants who committed offenses prior to November 1, 1987. The old Rule allows the defendant, as well as the Government, to move for a reduction of sentence as long as the defendant does so within 120 days of the sentence being imposed or probation being revoked. “A court has no authority to extend the 120-day period and has no jurisdiction over a Rule 35(b) motion filed after the period runs.” *Fernandez v. U.S.*, 941 F.2d 1488, 1492 (11th Cir.1991) (citing *United States v. Addonizio*, 442 U.S. 178, 189 (1979)). Petitioner was sentenced for the instant offense more than 120 days ago.

Petitioner’s Motion [30] is DENIED.

IT IS SO ORDERED this 14th day of April 2009.

s/ J. Owen Forrester
J. OWEN FORRESTER
SENIOR UNITED STATES DISTRICT JUDGE